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First name: Vance

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Organization: JRB, LLC

Title: Manager

Comments: Re: Objection to Regional Forester Listing the Bighorn Sheep as Species of Conservation Concern for the Ashley National Forest

Dear Ms. Emanuel,

JRB, LLC submits the following objection to the Intermountain Region Regional Forester's, Nora Rasure¹, inclusion of bighorn sheep into the list of species of conservation concern (SCC) for the Region and as incorporated into the Ashley National Forest Final Environmental Impact Statement (FEIS), Draft Land Management Plan (LMP), and Draft Record of Decision (ROD). This objection is submitted in compliance with 36 C.F.R. [sect][sect] 219.53, 219.54.

JRB is a fifth generational ranching entity that grazes livestock on federal, state, and private lands in Wyoming and Utah. Due to the substantial amount of public lands (approximately 50%) in both these states, JRB, as many ranchers, relies heavily on its federal grazing permits, including on the Ashley National Forest, to run a successful ranching operation. JRB is a longstanding steward of the land and its resources, and manages its livestock grazing activities to ensure healthy vegetation conditions persist for both its livestock and other wildlife in the area.

JRB's operations include the grazing of both cattle and domestic sheep, and more specifically has included the grazing of domestic sheep in the Uinta Mountains for decades before any bighorn sheep were translocated to the Hoop Lake area in 1989. With the translocation of bighorn sheep to an approximate 188,000 acre area near Hoop Lake, just east of active domestic sheep grazing allotments, it was never the intent to alter the domestic sheep grazing practices or to cancel any federal grazing permits. Ex. 1, Letter from R. Zobell, Forest Service Rangeland Management Specialist, to J. Broadbent (Apr. 5, 1998). Even though the 1989 translocation was to an extremely expansive area, during the subsequent thirty years, the bighorn sheep have expanded the habitat about 11 miles west and periodically near domestic sheep grazing allotments.

¹ Ms. Rasure was the previous Regional Forester that approved the final list of SCC in 2017. Mary Farnsworth is the current Intermountain Region Regional Forester.

Page 2

This expansion is likely due to the site of the original translocation and possibly compounded by inadequate management of bighorn sheep and their habitat.

The translocation of bighorn sheep and their ultimate expansion of habitat has put a lot of strain on the domestic sheep industry, which is an already weakened industry. Domestic sheep grazing did not cause the issues of [ldquo]commingling habitat,[rdquo] but it is the domestic sheep industry that is ultimately penalized for insufficient [ldquo]separation[rdquo] between bighorn sheep and domestic sheep. It is with this history that JRB prefaces its objection to the Ashley National Forest incorporating the Regional Forester's listing of bighorn sheep as a SCC into the FEIS and LMP, which will result in additional management actions against the domestic sheep industry to [ldquo]maintain a viable population[rdquo] of bighorn sheep. 36 C.F.R. [sect] 219.9(b)(1).

JRB did not make a specific comment during the planning process that claimed bighorn sheep should not have been listed as SCC. However, it did provide an extensive comment on the Draft EIS on February 16, 2022, that described the translocation history of the bighorn sheep, their migration through the years, how this has impacted

the sheep industry, and the objection to any management actions that would unduly burden or result in closure of the domestic sheep allotments. These same directed management actions were largely proposed due to bighorn sheep being listed as an SCC, and in response to the requirement to ensure the viability of the species. In addition, other parties, including the Wyoming Department of Agriculture (WDA), expressed their objection to the inclusion of the bighorn sheep as an SCC during the planning process. See FEIS, Appendix H at 179. Additionally, as a stakeholder in this matter, there apparently was no public involvement, as should have been required, for the discussion and input of effected ranchers such as JRB.

Under the 2012 Planning Rule, an SCC are those species not listed under the Endangered Species Act but [ldquo]known to occur in the plan area[rdquo] and the [ldquo]best available scientific information indicates substantial concern about the species[rsquo] capability to persist over the long-term in the plan area.[rdquo] 36 C.F.R. [sect] 219.9(c); FSH 1909.12, Ch. 10, [sect] 12.52c (Jan. 30, 2015). If a species is secure and its long-term persistence in the plan area is not at risk, based on information of its [ldquo]abundance, distribution, lack of threats to persistence, trends in habitat, or response to management,[rdquo] then that species cannot be identified as an SCC. FSH 1909.12, Ch. 10, [sect] 12.52c(2). Species with a NatureServe Conservation Status Ranking of G/T1 or G/T2 must be considered as a potential SCC. Id. at [sect] 12.52d(2). Species with a ranking of G/T3 or S1 or S2 should be considered. Id. at [sect] 12.52d(3)(a).

In addition, the Forest Service will consider species that have significant threats to populations or the ecological habitats they depend on, that have declining populations or habitat in the plan area, or restricted ranges. Id. at [sect] 12.52d(3)(f). Other items to consider in evaluating a species for listing as an SCC is distribution of the species, demographic and population trends, and habitat condition. Id. at [sect] 12.53.

Page 3

Under the 2012 Planning Rule requirements and associated guidance from the Forest Service Handbook, the Regional Forester concluded that the bighorn sheep was an SCC. FEIS, Appendix C at 11. At the time of ranking and now, the global ranking for bighorn sheep was G4 [ndash] Apparently Secure and the Utah ranking was S3, Vulnerable. Id.; see also https://explorer.natureserve.org/Taxon/ELEMENT_GLOBAL.2.102557/Ovis_canadensis. Neither of these rankings would have required the Forest Service to consider this species for SCC listing. In addition, it appears at the time of listing the State of Utah had the bighorn sheep on its list of species of greatest conservation need. FEIS, Appendix C at 11. But the Forest Service has since acknowledged that the State no longer lists bighorn sheep as a species of greatest conservation need. See FEIS, Appendix H at 179; see also UDWR, Utah Species Field Guide - Rocky Mountain Bighorn Sheep, available at <https://fieldguide.wildlife.utah.gov/?species=ovis%20canadensis%20canadensis>.

Despite this information suggesting listing of bighorn sheep as an SCC is not warranted, the Regional Forester decided to list bighorn sheep due to recent declines in populations on the Ashley National Forest caused by disease, ecological disturbances including conifer encroachment impacting habitat, and predation from mountain lines. FEIS, Appendix C at 11. However, the Forest Service then concludes that bighorn sheep [ldquo][h]abitat conditions are generally in satisfactory condition.[rdquo] Id. at 27; see also id. at Appendix D at 19. It also recognizes that bighorn sheep [ldquo]herds have fluctuated over time, have generally declined since 2009, but appear to have stabilized in recent years.[rdquo] Id. at Appendix D at 19. Both of these statements and admissions alone warrant the removal of bighorn sheep from listing as an SCC.

In addition, the Utah Division of Wildlife Resources (UDWR) has authority and responsibility over the protection, management, and conservation of the state[rsquo]s wildlife, including bighorn sheep. Utah Code [sect] 24-14-1(2)(a). UDWR can set policies that [ldquo]seek to maintain wildlife on a sustainable basis,[rdquo] and recognize the balance between habitat requirements of wildlife with the social and economic activities of man. Utah Code [sect] 24-14-3(2)(a)-(b). As part of its management, the UDWR has used translocation to reestablish and sustain

bighorn sheep populations and has entered into site-specific memorandums of understanding with livestock permittees and the Forest Service in an effort to reduce disease transmission and other potential conflict between bighorn sheep and domestic sheep. They also have a Utah Bighorn Sheep Statewide Management Plan that was last updated in 2018 (Ex. 2).

The UDWR has [ldquo]successfully managed a sustainable population of wild sheep[rdrquo] since their translocation to this area over 30 years ago. Ex. 3, Letter from M. Fowlks, Director of UDWR, to J. Schramm, Ashley National Forest Supervisor (Apr. 27, 2018). While some decline in populations have occurred over the years, the Forest Service recognized that the populations have stabilized (FEIS, Appendix D at 19), and that the UDWR has removed them from its list of species of greatest conservation need (noted supra). In addition, the UDWR has allowed hunting of bighorn sheep in Utah since 1991 (desert subspecies since 1967). Ex. 2, Utah Bighorn Sheep

Page 4

Statewide Management Plan at 5 (2018). If there is a concern about the ability of bighorn sheep populations to persist into the future, then there should be no hunting season. But the UDWR has concluded that the populations are sufficient to allow for continued hunting of bighorn sheep in Utah. These factors also warrant a decision to remove bighorn sheep from the list of SCC. For avoidance of doubt, permitting hunting of a purported SCC makes no sense, and is evidence that bighorn sheep are in fact not an SCC

JRB is committed to working with the UDWR, Utah Department of Agriculture and Food (UDAF), and Forest Service through respective site-specific memorandums of understanding that involve its permitted allotments to address potential conflicts between bighorn sheep and domestic sheep. The Forest Service and UDWR accepted the risk of potential conflict when it first translocated bighorn sheep to this area in 1989. Ex. 1, Letter from R. Zobell, Forest Service Rangeland Management Specialist, to J. Broadbent (Apr. 5, 1998). Further, UDWR ensured it would handle any future management concerns consistent with the Utah Bighorn Sheep Statewide Management Plan. Ex. 3, Letter from M. Fowlks, Director of UDWR, to J. Schramm, Ashley National Forest Supervisor (Apr. 27, 2018). The UDWR has completed its obligations of ensuring the bighorn sheep populations persist in Utah, while also protecting the domestic sheep industry. JRB, therefore, requests that the Forest Service remove bighorn sheep from the SCC list for the Ashley National Forest and, as a result, refrain from adopting restrictive management actions in the LMP and ROD that adversely impact domestic sheep grazing allotments and permittees in the area.

JRB strongly opposes any further harm to the domestic sheep industry due to the evolution of an experimental translocation of bighorn sheep. The domestic sheep allotments have remained in place and consistently managed prior to the 1986 Ashley National Forest Plan Revision. The expansion of bighorns across the Ashley National Forest, along with LMP management actions, have the potential to cause unnecessary harm to the social and economic sustainability of the domestic sheep grazing permittees, such as JRB, and the local economies of the communities where grazing permittees are based and also operate. Please remember such rural communities are comprised of decent, hardworking, patriotic people who generally do not have the myriad of different employment opportunities as available in highly urbanized or [ldquo]citified[rdrquo] areas.

Thank you for the consideration of this objection to the Regional Forester's inclusion of bighorn sheep on the SCC list and incorporation of that list into the Ashley National Forest LMP revision process.

Sincerely, JRB, LLC

by: Vance S. Broadbent, Manager